

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VICTORY LANE QUICK OIL
CHANGE, INC., a Michigan corporation,

Plaintiff/Counter-Defendant,

Civil No. 07-14463
Hon. John Feikens

v.

JOHN P. HOSS, an individual,
ROY W. STARBIRD, an individual,
CHECKERED FLAG OIL CHANGE
CENTER, INC., a Michigan corporation,

Defendants/Counter-Plaintiffs.

ORDER MODIFYING AND ADOPTING REPORT AND RECOMMENDATION

I have before me, Magistrate Judge Steven D. Pepe's Report and Recommendation ("Report") (Docket #71). In his Report, Magistrate Judge Pepe recommends that I grant Plaintiff's Motion for Partial Summary Judgment, grant Plaintiff's Motion for Summary Judgment on Defendants' Counterclaims, and deny Defendants' Motion for Partial Summary Judgment. Defendants filed an Objection, Plaintiff filed a Response, and Defendants filed a Reply in Support of their Objection. Having considered the arguments set forth by the parties, I ADOPT Magistrate Judge Pepe's Report with the following modifications:

- On page 2 of the Report, change "it is RECOMMENDED that Plaintiff's motion for partial summary judgment be GRANTED and Plaintiff's

motion for summary judgment on the Defendants' counterclaims and Defendants' motion for partial summary judgment be DENIED" to "it is RECOMMENDED that Plaintiff's motion for partial summary judgment and Plaintiff's motion for summary judgment on the Defendants' counterclaims be GRANTED and Defendants' motion for partial summary judgment be DENIED."

- On page 3 of the Report, change "Defendants Starbird and Checkered Flag indicated to Plaintiff that they were considering renewal of the subject franchise agreement and continued to operate as a Plaintiff franchise facility after May 6 and through June 2007." to "Defendants Starbird and Checkered Flag allegedly indicated to Plaintiff that they were considering renewal of the franchise agreement. They continued to operate as a Plaintiff franchise facility after May 6, 2007, and through June 2007."
- On page 9 of the Report, after "Defendants post a sign no smaller than 15" x 30" giving directions to Victory Lane's other Howell location prominently displaying Victory Lane's logo on their sign," add "within 30 days of this order, and the sign is to remain posted until February 1, 2010."

I GRANT Plaintiff's Motion for Partial Summary Judgment and Plaintiff's Motion for Summary Judgment on Defendants' Counterclaims and DENY Defendants' Motion for Partial Summary Judgment.

IT IS SO ORDERED.

Date: August 10, 2009

s/ John Feikens
John Feikens
United States District Judge

Proof of Service

I hereby certify that the foregoing order was served on the attorneys/parties of record on August 10, 2009, by U.S. first class mail or electronic means.

s/Carol Cohron
Case Manager